

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

IN THE INTEREST OF J.B.

JUVENILE OFFICER,

Respondent,

v.

W.B. (Father),

Appellant.

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**DOCKET NUMBER WD78428**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** October 6, 2015

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**APPEAL FROM**

The Circuit Court of Clay County, Missouri  
The Honorable K. Elizabeth Davis, Judge

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**JUDGES**

Division Three: Mitchell, P.J., and Hardwick and Gabbert, JJ.

CONCURRING.

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**ATTORNEYS**

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Attorney for Appellant.

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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE INTEREST OF J.B.

JUVENILE OFFICER,

Respondent,

v.

W.B. (Father),

Appellant.

OPINION FILED:

October 6, 2015

WD78428

Clay County

Before Division Three Judges:

Karen King Mitchell, Presiding Judge, and Lisa White  
Hardwick and Anthony Rex Gabbert, Judges

W.B. (Father) appeals the juvenile court's judgment finding his son (Child) in need of the care and protection of the court. Father raises three claims on appeal: (1) there were insufficient facts pled in the petition to vest the juvenile court with jurisdiction over Child; (2) there was insufficient evidence presented at the adjudication hearing to support the juvenile court's exercise of jurisdiction over Child; and (3) the juvenile court failed to make sufficient findings in its judgment to support its exercise of jurisdiction over Child in that the findings did not establish that removal of Child from Father's care was necessary. Because Father's second point has merit, we reverse the judgment of the juvenile court.

**REVERSED.**

**Division Three holds:**

1. The petition was sufficient under both § 211.091 and Rule 113.01 to vest the juvenile court with jurisdiction over Child, where the petition both parroted the statutory language and included a specific allegation pertaining to neglect by Father.
2. Although the petition alleged that Father's untreated mental illness rendered him unable to care for Child, the evidence failed to support this allegation.

3. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.
4. Likewise, the juvenile office presented no evidence demonstrating that Father was unable or unwilling to care for his other children. It merely proved that they were not in his care, but it failed to prove why. Thus, this could not serve as a basis for continued jurisdiction.
5. Past drug usage, alone, does not demonstrate that Father would be unable to care for Child. The juvenile office must demonstrate that Father's drug usage interferes with his ability to parent Child.
6. The court needed to view the evidence as to Mother and Father independently and not consider evidence against Mother as detrimental to Father. Each parent has parental rights with respect to each child, and each child has filial rights with respect to each parent. They may not be lumped together and disposed of wholesale with a single stroke. Each relationship should be considered separately.

**Opinion by: Karen King Mitchell, Presiding Judge**

October 6, 2015

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.